



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

SEP 15 2004

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

FIRST CLASS MAIL

Michael Joyner
Chief of Staff
Florida Department of Environmental Protection
3900 Commonwealth Blvd.
Tallahassee, FL 32399-3000

David Mica
Executive Director
Florida Petroleum Council
215 South Monroe St.
Tallahassee, FL 32301

Re: Terminal Operations in Florida; Enforcement Discretion for Storage Tanks

Dear Messrs. Joyner and Mica:


On Friday, September 3, 2004, the Florida Department of Environmental Protection contacted the U.S. Environmental Protection Agency requesting relief from the enforcement of certain provisions of the New Source Performance Standard (NSPS) Subpart XX and the National Emission Standard for Hazardous Air Pollutants (NESHAP) Subpart R for terminal operators in Florida. Specifically, you requested that the requirements for vapor tightness certifications, control requirements and limits for VOC emissions from the loading of trucks at bulk terminals be temporarily waived at Florida's gasoline and diesel fuel terminals to allow additional use of trucks, some of which do not normally deliver fuel to Florida, to deliver and distribute fuel in Florida. As you stated, the terminals have been unable to receive a constant supply of fuel from the barges typically used due to the effects of the recent hurricanes, and, as a result, Florida is relying on out-of-state trucks for fuel transport. DEP also stated that a waiver from the requirements in NSPS Subpart XX and NESHAP Subpart R for truck loading and unloading would minimize the occurrence of fuel shortages as a result of Hurricanes Charley, Frances and, most recently, Ivan.

Given the unusual fuel shortage caused by Hurricane Frances and Hurricane Ivan, and

assuming the above accurately reflects the situation, the U.S. EPA will exercise its enforcement discretion with respect to violations of NSPS Subpart XX and NESHAP Subpart R, that may occur at the fuel terminals in Florida due to truck loading and unloading operations beginning on September 10, 2004 and continuing through midnight, Friday, September 24, 2004. I understand from conversations between members of our staffs on September 14, 2004, that this amount of time should give the terminals the flexibility that they need to address the current fuel shortages. Any party who takes advantage of this exercise of EPA's enforcement discretion must notify the Florida DEP by November 1, 2004.

If you have any questions or if you determine that you need an extension of this enforcement discretion, please feel free to contact either Adam Kushner, at (202) 564-7979, or Carol Holmes, at (202) 564- 8709, of the Air Enforcement Division.

Sincerely,



Thomas V. Skinner
Acting Assistant Administrator

cc: Thomas L. Sansonetti, Department of Justice
J.J. Palmer, Jr., U.S. EPA, Region 4
Michael Cooke, Florida DEP
Walker Smith, U.S. EPA, ORE, OECA
Randy Hill, U.S. EPA, ORE, OECA
Adam Kushner, U.S. EPA, ORE, OECA